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SUBJECT: EL SALVADOR: WORST FORMS OF CHILD LABOR REPORT 2007

REF: STATE 158223

1. (U) Summary: Pursuant to reftel, this cable provides information on the worst forms of child labor in El Salvador. As a country eligible for trade benefits under the Generalized System of Preferences (GSP), El Salvador supports efforts to eliminate the worst forms of child labor. During 2007, the ILO implemented ten programs specifically designed to eliminate said abuses. Based on the information provided by the government, it is difficult to assess the government's role in these programs. Also, it is difficult to determine the effectiveness of these efforts because the Ministry of Labor conducted no inspections for child labor from March through October. End Summary.

Laws and Regulations Proscribing
the Worst Forms of Child Labor

2. (U) The Salvadoran Constitution prohibits child labor under the age of 14. It also prohibits child labor for older children while they are still receiving compulsory education through the ninth grade. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. However, according to the Labor Code, children aged 12 to 14 can be authorized to perform light work, as long as it does not harm their health and development or interfere with their education. Children under 16 years of age are prohibited from working more than 7 hours per day, and 34 hours per week. Children under the age of 18 are prohibited from working at night.

3. (U) El Salvador defines the worst forms of child labor or hazardous work in the same fashion the ILO defines those terms. Forced or compulsory labor is prohibited by the Constitution, except in cases of public calamity and other instances specified by the law. All forms of slavery or practices similar to slavery are forbidden under a general provision of El Salvador's Constitution, as well as the Criminal Code. The sale and trafficking of children, debt bondage, and serfdom are specifically penalized in the Criminal Code. Criminal penalties for trafficking range from 4 to 8 years of imprisonment, and increase by one-third if the victim is under the age of 18 years.

4. (U) Military recruitment of children is not permitted. However, voluntary service can begin at age 16.

5. (U) The use, procurement, or offering of a child for prostitution, for the production of pornography, or for pornographic performances are penalized in the Constitution. Although the Criminal Code does not criminalize prostitution

per se, it penalizes the inducement, facilitation, or promotion of prostitution of a person younger than 18 years old. The Penal Code considers the commercial sexual exploitation of children, trafficking of children, and child pornography forms of organized crime, and provides harsher penalties for such crimes. The law that regulates drug-related activities penalizes the use of a child for illicit activities.

¶16. (U) The Labor Code prohibits types of work that will likely harm the safety or morals of children. In 1999, the Government of El Salvador submitted to the ILO a document identifying hazardous forms of work prohibited for minors under Convention 182 and Convention 138. There ere no new laws promulgated in 2007 relating to child labor.

Regulations for Implementation and Enforcement
of Proscriptions against the Worst Forms of Child Labor

¶17. (U) Enforcement of child labor law is the responsibility of the Ministry of Labor, but labor inspectors usually tend to focus on the formal sector where child labor is less frequent, and as a result, few complaints are presented. The 2006-2010 National Plan to Eradicate the Worst Forms of Child Labor places the Ministry of Labor in charge of reviewing, updating, and modernizing the legal framework related to child labor, as well as to increase legal oversight and labor inspections to prevent and eradicate hazardous job conditions.

¶18. (U) The National Civilian Police (PNC), the Immigration Office, and the Office of the Attorney General (FGR) are the government agencies responsible for enforcing trafficking laws. Administrative complaints presented before the Ministry of Labor, when it refers to child labor violations, are different from criminal activity such as trafficking, offering a child for pornographic or prostitution services, and others. However, if the child labor violation is considered a crime, then the Attorney General Office in conjunction with the National Civilian Police are in charge of enforcing child labor laws.

¶19. (U) In general, the legal remedies for trafficking are adequate to punish violations but likely provide little deterrence, due to economic, cultural, and social conditions. The legal remedies for child labor are rarely enforced, providing little punishment or deterrence.

¶110. (U) Through October 2007, the Ministry of Labor reported receiving no complaints of child labor. However, child labor is culturally acceptable in El Salvador, and historically there have been few complaints. The Ministry of Labor invests USD \$218,000 annually in the investigation of child labor cases. The Ministry of Labor has 158 labor inspectors conducting inspection programs; however none work specifically on child labor issues.

¶111. (U) From January to October, the National Civilian Police (PNC) investigated 32 cases of trafficking in persons. From January to February, the Ministry of Labor conducted 11 inspections for child labor and removed 81 children from child labor activities. However the Ministry reported conducting no labor inspections for child labor between March and October. Also, the Ministry reported conducting no inspections in sugarcane, coffee, or cotton plantations during this period. Children are frequently used as laborers in these industries. There was no reason given for the lack of inspections during this time period. The Ministry reported imposing no fines for child labor activity through October.

¶112. (U) As of October, the Ministry of Labor reports training 158 inspectors, 590 police officers, 64 judges, and 125 students.

Social Programs to Prevent and Withdraw
Children from the Worst Forms of Child Labor

¶13. (U) The ILO and other non-governmental organizations, with the support of the Ministry of Labor, are currently implementing the second stage of the National Plan for the Eradication of the Worst Forms of Child Labor. The budget for these activities is USD \$3,380,000.

¶14. (U) On March 28, 2007, the National Civilian Police (PNC) introduced a Procedural Manual to Combat the Sexual Commercial Exploitation of Children and Adolescents. In June 2007, the PNC launched an awareness campaign against sexual exploitation.

¶15. (U) The government continues implementing the Child Labor Education Initiative, which aims to prevent and remove children from exploitative labor by increasing awareness and access to educational services. The budget for this Initiative, implemented by the Ministry of Education, is USD \$499,998. According to the Ministry of Education there are 218,884 children who currently work and attend school.

¶16. (U) The ILO has implemented ten programs, with a budget of USD \$482,587, to eliminate the worst forms of child labor. The Ministry of Labor is responsible for monitoring the progress and effectiveness of these programs; however there were no on-site inspections conducted between March and October 2007. (Comment: It is difficult to determine the level of the Ministry of Labor's role in these activities based on the limited information that was provided by the Ministry. Post will provide updates as more information becomes available. End Comment.)

¶17. (U) Additional ILO programs to eliminate the worst forms of child labor are being conducted by various non-governmental organizations throughout the country. These programs focus on industries in which child labor is most common, including fishing and sugarcane production. Also, the government has a \$3,380,000 program to reduce poverty, &Red Solidaria8, which indirectly helps prevent child labor.

Comprehensive Policy Aimed at the
Elimination of the Worst Forms of Child Labor

¶18. (U) In 2006, the government launched its first National Plan for the Elimination of the Worst Forms of Child Labor. The Ministries of Labor, Education, Health, Agriculture, Foreign Affairs, Tourism, Governance, Economy, and the National Secretariat for the Family, the National Secretariat for Youth, the National Institute for the Development of Children and Adolescents, in conjunction with the Small and Medium Enterprises Committee, the National Superior Labor Council, the National Round Table Against Sexual Commercial Exploitation, and the National Committee For the Elimination of the Worst Forms of Child Labor, joined efforts with the ILO/IPEC International Program on the Elimination of Child Labor to launch a four-year national plan to eliminate the worst forms of child labor. The plan aims to continuously reduce by at least 10 percent of the targeted population of 288,221 children from 5 to 17 years old who work. The government reports that it is currently in Phase II of the National Plan.

¶19. (U) Article 56 of the Salvadoran Constitution establishes that education is free and compulsory through the 9th grade. Although laws prohibit impeding children's access to schools for being unable to pay school fees or wear uniforms, some school continued to charge school fees to cover budget shortfalls.

Country's Continual Progress Toward
Eliminating the Worst Forms of Child Labor

¶20. (U) Reftel requests post provide information regarding El Salvador's progress towards eliminating child labor. However, the limited information provided by the Ministry of Labor does little to demonstrate the effectiveness of current programs, especially given the ministry's apparent suspension of inspections for several months in 2007. This, in turn, has limited the availability of data on the number of children currently working. Post will provide updates as more information becomes available.
Glazer